

Forum: General Assembly Three (GA3)

Issue: The Question of Resident Status and Immigration Rights of Migrant Workers

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Introduction

The presence of migrant workers in countries all over the world today is not a new phenomenon. From servitude in the colonial era to labour programs in the US in the 1940s, it is evident that workers have, through the ages, constantly been on the move from their native country to a foreign country, in the name of better economic prospects and job opportunities.

However, it was in the 20th Century that the world really saw the number of migrant workers skyrocket. Following the recovery from the Great Depression of 1930, demand for labour in countries like the US sharply increased as production began to start up again. Schemes like the Bracero Program in the US for Mexican migrant workers, for example, have led to large volumes of workers seeking better economic prospects in the States, and elsewhere in the world. As of 2005, the number of international migrants stands at an estimate of between 185 to 192 million.

This meant well – until it spelled severe overpopulation in destination areas. It was perhaps because of this, along with the fact that labour was supplied cheaply, that firms began to take a less hospitable stance towards these workers, saddling them with subpar living conditions and paltry wages. Migrants were not treated as equals with their native counterparts, with them not being able to enjoy various benefits such as healthcare, education and the right to remain permanently in the country or leave as they so wish amongst others, following the completion of their contractual obligations from work. Till today, the problem still exists, with it being made all the more pertinent, given the rapid rise in numbers of migrant workers over the past decade.

Key Terms Defined

Migrant Workers

An individual who receives monetary remuneration for labour in a country that he is not a native of.

Illegal Immigrants

Individuals, typically migrant workers, who have not arrived in a country lawfully, and do not have the legal permission to be in the country.

Resident Status

The status of being granted the right to remain in a country for a stipulated period of time, with the status being subjected to review, renewal or being revoked over time as deemed fit by the relevant authorities of a country. It should be noted that resident status does not mean citizenship.

Immigration Rights

The right for an individual - in this case, a migrant worker - to choose to either permanently stay in the country, or to leave the country for another, following the completion of his contract with his or her employer.

Contractual Obligations

Requirements pertaining to a worker's job scope as stated in an agreement with specific terms between the migrant worker and his or her employer, in exchange for monetary remuneration.

Origin Country

The native country, or country of birth, of a migrant worker.

Destination Country

The country in which the migrant worker arrives at to labour for remuneration, following his departure from his native country.

General Overview of Topic

The issue of migrant rights is not one that is unprecedented. Following the exposure of numerous violations of migrant rights all over the world, the UN has cast a spotlight on countries that have been found guilty of violating this form of human rights. While issues such as migrant workers experiencing subpar living conditions and domestic violence at the hands of their employers have commonly been discussed, issues that seem to be a less overt violation of these migrant worker rights have taken a back seat. These issues include the resident status, as well as immigration rights of these migrant workers.

Resident status does not seem to be a problem for most migrant workers – prior to arriving

at their destination country, they have obtained all necessary and legal documents that will grant them the ability to lawfully stay in the country. The problem lies in migrant workers that have not arrived in the country lawfully. In other words, the illegal immigrants who have, through means such as illegal border traversing, arrived in the country in search of better economic prospects. Equally terrifying is the notion that some of these illegal migrant workers have arrived through means such as human trafficking – another instance of the violation of human rights on the part of their employers and traffickers.

The question is this – do we then allow these citizens to obtain legal paths to residency in the country or do we deport them? While deportation may seem to be the rational solution, it must be kept in mind that migrant workers, both legal and non-legal, form a significant part of the workforce. In Middle Eastern countries such as Qatar, the population of migrant workers amounts to 94% of the workforce, according to the International Labour Organization (ILO). Hence, deporting them would result in a severe labour gap and a slowing down of these industries.

Furthermore, with regards to legal migrant workers, there have been instances in countries such as China and the Middle East in which following the completion of their contractual obligations they were not allowed to leave employment or the country, a violation of a worker's right to immigrate, infringing on the rights of these individuals to have the freedom of movement.

Ultimately, all this has lead to complaints and cries for a reform of the aforementioned behaviour, and it is with due discourse that the General Assembly Three aims to find plausible and possible solutions to these problems.

Major Countries, NGOs and Their Views

China

With 167 million migrant workers present all over the country as reported in 2012, China currently stands as the country with the highest number of migrant workers in the world – a portion of which are illegal immigrants. The country itself tacitly supports migration as a means of providing affordable labour for the mass manufacturing of goods to spur its production-based economy. However, Human Rights Watch and labour organizations such as the International Labour Organization (ILO) has constantly been monitoring the country, given its propensity and numerous incidences of having violated the rights of migrant workers in sweatshops for mass production. Their immigration rights are often neglected, with

firms and factories refusing to let workers go even long after their contract has expired, in the name of ensuring the continuity of their own production lines.

The United States of America

The United States of America was one of the countries that pioneered modern guest worker programs. In particular, the country initiated the Bracero Program in 1942, drawing thousands of migrants over from Mexico to work in the then-developing agricultural industry. Since then, it has constantly been identified as a destination country for migrants all over the world seeking better economic prospects. The Obama administration, along with numerous non-governmental organizations (NGOs) have been pushing hard for greater recognition of immigrant rights – including residential recognition - in recent years, making migrant life in the country more favourable than in other parts of the world. However, with regards to the issue of illegal migrant workers, it should be noted that the Administration has deported approximately a million illegal immigrants over the past year, and has more often than not adopted a stringent policy of not allowing these workers to obtain legal recognition and resident status.

Middle Eastern Countries

In recent years, the Middle East has seen an unprecedented demand for migrant workers, making it one of the current top destination countries for these migrants. It is estimated that there are over 2 million migrant workers in the region today. 94 percent of the workers in Qatar are migrants, while the figure is approximately 50 percent in Saudi Arabia, according to the International Labour Organization (ILO). Most of these workers belong to the construction or domestic work industry. These workers are particularly susceptible to abuse, given the work sponsorship system in the region. Because of the way employers sponsor payments for visa and hence legal resident status for these workers, the employers are able to treat them in any way they deem fit, paving the way for abuse. Ultimately, these workers often face the risk of abuse and deportation, with their resident status being uncertain, and their rights to immigrate freely to another country for work, should they wish, following the tenure of their contract undermined.

International Labour Organization (ILO)

The International Labour Organization (ILO) is a non-governmental organization dedicated to promoting social justice, as well as human and labour rights. Since its formation in 1946, it has constantly been pushing for the rights of migrant workers. Today, it continues to help advance the establishment of acceptable working and

economic conditions for migrant workers all over the world.

Committee on Migrant Workers (CMW)

The Committee on Migrant Workers (CMW) monitors the implementation of the provisions of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. While it may have only been formed recently, with its first committee meeting having been held in March 2004, it still remains as an important body that ensures that countries and employers all over the world comply with the standards set for the upholding of migrant rights.

Timeline

October – November 1919 – The first International Labour Conference was held in Washington D.C.

1946 – The ILO became the first specialized agency of the then newly formed United Nations.

24th June, 1975 – The Migrant Workers (Supplementary Provisions) Convention was adopted.

November 1st, 1977 – The United States of America withdrew from the ILO, following the ILO's vote to grant the Palestinian Liberation Organization observer status at its meeting on June 12 1975, accusing the ILO of becoming "politicized".

December 18th, 1990 – The United Nations General Assembly adopted the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (otherwise known as the UN Migrant Workers Convention).

December 4th, 2000 – The United Nations General Assembly appointed December 18th as "International Migrants Day". This day is observed in countries all over the world, along with various intergovernmental and non-governmental organizations, with the dissemination of information on the fundamental rights and political freedoms of migrants.

July 1st, 2003 – The UN Migrant Workers Convention entered into force. The Committee on Migrant Workers (CMW) oversees issues pertaining to it.

September 14th – September 15th, 2006 – The General Assembly held the first General Assembly High Level Dialogue on International Migration and Development, a conference devoted to international migration and migrant protection, amongst other migrant issues.

December 18th, 2007 – The General Assembly passes A/RES/62/156, the “Protection of Migrants” resolution.

June 20th, 2008 – The General Assembly passes A/RES/62/270, the “Global Forum on Migration and Development” resolution.

March 10th, 2009 – The General Assembly passes A/RES/63/225, the “International Migration and Development” resolution.

December 2nd, 2010 – The Executive Committee of the European Trade Union (EUTC) adopted a resolution on equal treatment and non-discrimination for migrant workers.

UN Involvement and Relevant Resolutions

The United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

The United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families is an international agreement governing the protection of migrant workers and families. It was signed on 18th December 1990 and entered into force on 1st July 2003, with the primary objective of the Convention being to foster respect for migrants’ human rights. The Convention aims to do so by serving as a guide for the promotion of migrant rights in UN member states and guaranteeing of equality of treatment for every migrant worker.

It should also be noted that while the Convention realizes that legal migrants have the legitimacy to claim a greater number of rights than their undocumented counterparts, the latter should still have their fundamental human rights respected.

The Migrant Workers (Supplementary Provisions) Convention of 1975

The Migrant Workers (Supplementary Provisions) Convention of 1975 was an International Labour Organization convention pertaining to the rights of migrant

workers. The Convention of 1975 established a definition for the term 'migrant worker' in Article 11 of the Convention, with the term referring to a person who migrates or who has migrated from one country to another to be employed for work. The term, however, "does not apply to frontier workers, artistes and members of liberal profession, seamen or persons coming specially for purpose of education". Today, the document has been ratified by 23 states.

Resolutions

"A/RES/62/156 - "Protection of Migrants" "

UN Resolution 62/156 was a resolution passed in the 18th December 2007 plenary meeting of the General Assembly, pertaining to the protection of migrant workers globally. In retrospect of past resolutions and action that has been taken by the UN to curb the problem of migrant right abusals, this resolution sought greater cooperation from states to recognize the rights of these individuals, and to uphold them through various means of enforcement. It also encouraged states who have yet to ratify the United Nations Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

"A/RES/62/270 - "Global Forum on Migration and Development"

UN Resolution 62/270 was passed on the June 20 2008 plenary meeting of the General Assembly. The Resolution called for the formation of the Global Forum on Migration and Development, in which member states could discuss migration and development interconnections in practical and action oriented ways. It is through this recent initiative the the UN hopes to establish a platform for comprehensive and cohesive debate on migration and development policies that are both feasible and sustainable in the real world, so as to ensure the welfare of both migrants and member states.

Possible Solutions

Stricter Enforcement of Migrant Rights

The pursuit of profit has more often than not lead to the sidelining and marginalization of the rights of migrant workers. Due to the privatized nature of firms and agencies that

recruit migrant workers, governmental bodies often leave these companies to do as they deem fit, with regards to these individuals. It is such a mindset that has led to the repeated violation of migrant rights.

Stricter enforcement of migrant rights is hence needed, namely in the form of punitive measures. To ensure that employers comply with the need to acknowledge the rights of migrants, the respective authorities of a country could engage in financially punitive measure (ie, heavy fines) for those who still continue to marginalize migrants, in spite of repeated warnings.

Incentives to Encourage The Appropriate Treatment of Migrant Workers

In addition to or as an alternative to the aforementioned punitive measures, what could also be done is to encourage employers to treat their employees - migrant workers - fairly. This means adhering to minimum wage requirements, and ensuring that their living and working conditions are not subpar. Above all, they should not place their workers at the risk of deportation unnecessarily, and not prevent a worker from immigrating to another country for work following the ending of a worker's contract.

The respective governments of a country could offer incentives to employers in the form of factory production subsidies, or offer to subsidize the living costs for a worker, as long as they agree to comply with the appropriate standards of treating their migrant employees.

Education of Migrant Workers on Their Rights

Part of the reason why migrant workers are still subjected to having their rights violated and abused is that they are not even aware of the fact that they are entitled to these rights themselves. It is perhaps because of this that they continue to suffer in silence. That said, it is hoped that following this increased awareness that they will begin to bring these issues up with their employers, and have the situation change for the better.

Works Cited

"The International Convention On Migrant Workers And Its Committee" Web. 15 August. 2013.
<<http://www.ohchr.org/Documents/Publications/FactSheet24rev.1en.pdf>>

The Economist, "Attempts To Improve Lots Of Migrants Working In The Middle East Are Unlikely" Web. 15 August. 2013.
<<http://www.economist.com/news/middle-east-and-africa/21583291-attempts-improve-lot-migrants-working-middle-east-are-unlikely>>

“United Nations General Assembly and Economic and Social Council Reports on the Secretary-General and Resolutions” Web. 15 August. 2013.
<<http://www.un.org/esa/population/migration/ga/index.html>>

UN News Centre, *“Migrant Workers In The Middle East Often Exploited, UN Reports at Human Trafficking Conference”* Web. 15 August. 2013.
<<http://www.un.org/apps/news/story.asp?NewsID=44604#.Ug4ZpWSPtTE>>

International Labour Organization. Web. 15 August. 2013.
<<http://www.ilo.org/global/about-the-ilo/mission-and-objectives/lang--en/index.htm>>

A/RES/62/156
<http://www.iom.int/jahia/webdav/shared/shared/mainsite/policy_and_research/un/62/A_RES_62_156_EN.pdf>

A/RES/62/270
<http://www.iom.int/jahia/webdav/shared/shared/mainsite/policy_and_research/un/62/A_RES_62_270_EN.pdf>